

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATIVIDAD SILVA, JR.,

Petitioner,
v.

LESTER C. WARD,

Respondent.

ORDER

Case No. 14-cv-424-wmc

Petitioner Natividad Silva, Jr., a prisoner in the custody of the U.S. Bureau of Prisons, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner requests leave to proceed without prepayment of the filing fee. Petitioner has supported this request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed without prepayment, this court uses the following formula. First, the court determines petitioner's average monthly deposits and average monthly balances for the six-month period immediately preceding the filing of the petition. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, petitioner will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula, I find that petitioner is able to pay the filing fee. According to the trust account statement, in the past six months petitioner's monthly deposits have averaged \$313.40 and 20% of this figure is \$62.68. Accordingly, I will deny petitioner's application for leave to proceed without prepayment of the filing fee. To proceed further on

this habeas petition, petitioner must pay the \$5 filing fee. If petitioner fails to pay the fee by July 3, 2014, the petition will be dismissed for failure to prosecute.

ORDER

IT IS ORDERED that the petition of Natividad Silva, Jr. for leave to proceed without prepayment of the filing fee is DENIED. Petitioner has until July 3, 2014 in which to pay the \$5 filing fee. If petitioner fails to submit the fee by July 3, 2014, the petition will be dismissed for failure to prosecute.

Entered this 12th day of June, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge